

Notice of Public Hearing

LSA Document #13-24

Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is hereby given that on November 12, 2013, at 6:00 p.m., at the Plainfield Public Library, 1120 Stafford Road, Plainfield, Indiana, the Natural Resources Commission will hold a public hearing on a proposal to amend [312 IAC 9-5-11](#) addressing requirements associated with a turtle possession permit and the species of turtles that may be possessed, amend [312 IAC 9-10-6](#) governing applicants for a scientific purposes license, amend [312 IAC 9-10-7](#) regarding requirements for obtaining field trial permits, amend [312 IAC 9-10-11](#) governing requirements for obtaining and carrying out activities with a nuisance wild animal control permit, amend [312 IAC 9-10-13.1](#) to establish requirements associated with the release or transfer of raptors and to allow a master class license holder to take peregrine falcons, add [312 IAC 9-10-22](#) governing requirements for a shooting preserve license and specifying boundary markings for a licensed shooting preserve, add [312 IAC 9-10-23](#) establishing a migratory bird depredation permit, amend [312 IAC 9-11-1](#) governing wild animal possession permits, amend [312 IAC 9-11-2](#) governing requirements for obtaining a first wild animal possession permit, amend [312 IAC 9-11-4](#) addressing requirements associated with the possession of a relocated Class III wild animal, amend [312 IAC 9-11-7](#) by adding species to the list of Class II wild animals for which a permit is required, amend [312 IAC 9-11-8](#) by removing species from the list of Class III wild animals for which a permit is required, amend [312 IAC 9-11-10](#) governing confining and enclosing wild animals held under a wild animal possession permit, amend [312 IAC 9-11-11](#) governing housing requirements for wild animals held under the wild animal possession permit, amend [312 IAC 9-11-14](#) governing the use of a wild animal possessed under the wild animal possession permit, and make other clarifying and technical amendments.

The Department of Natural Resources (DNR) is proposing amendments to the rules that govern the turtle possession permit ([312 IAC 9-5-11](#)), scientific purposes license ([312 IAC 9-10-6](#)), field trial permit ([312 IAC 9-10-7](#)), nuisance wild animal control permit ([312 IAC 9-10-11](#)), falconry license ([312 IAC 9-10-13.1](#)), shooting preserve license ([312 IAC 9-10-22](#)), migratory bird depredation permit ([312 IAC 9-10-23](#)), and wild animal possession permit ([312 IAC 9-11-1](#), [312 IAC 9-11-2](#), [312 IAC 9-11-4](#), [312 IAC 9-11-7](#), [312 IAC 9-11-8](#), [312 IAC 9-11-10](#), [312 IAC 9-11-11](#), and [312 IAC 9-11-14](#)). The new requirements in [312 IAC 9-5-11](#) governing the turtle possession permit that add a date to submit renewal applications to the department, provide documentation of the permanent unique identifier on the turtle or turtles, and indicate how the turtle was obtained on the annual report are necessary to ensure compliance with the rule. The requirement in [312 IAC 10-6](#) governing the scientific purposes license is needed to require applicants to be affiliated with a school, government agency, nonprofit organization, scientific research organization, accredited museum, consulting firm, institution of higher learning, or working under a contract with an educational or scientific institution. This affiliation helps ensure that the work is being done for bona fide scientific or educational purposes and not for personal use. The changes in [312 IAC 9-10-11](#) governing the nuisance wild animal control permit will require the use of a department form, which is standard for permits issued by the DNR and is necessary to obtain the required information to be able to issue a permit. The changes also require a permit holder to obtain permission from the landowner or tenant prior to setting a trap, snare, or other device or capturing a wild animal on that person's property. This is required to be consistent with state law in [IC 14-22-10-1](#). Requiring the hide, carcass, other part, or meat of a wild animal taken under this permit to be tagged if retained or gifted to another person is necessary for that person to be able to document legal acquisition of the wild animal or part thereof. Adding notification of the release of a raptor within 10 days in [312 IAC 9-10-13.1](#)(l) is to establish consistency with federal law in 50 CFR 21.3. Requiring written approval from the Division of Fish and Wildlife to authorize a falconer to take an unbanded, juvenile peregrine falcon from the wild is required because the division of fish and wildlife will be given a very limited quota from the U.S. Fish and Wildlife Service. Therefore, the division of fish and wildlife will need to control who is doing the trapping and have the ability to restrict trapping if the quota for the state of Indiana is reached. The new rule in [312 IAC 9-10-22](#) governing the shooting preserve license specifies that an application must be submitted on a departmental form and filed with the Division of Fish and Wildlife, and sets forth the requirements for the signs. State law in [IC 14-22-31-6](#) requires a rule to specify requirements for the signs. These provisions are the same as those for signs under the dog training ground permit in [312 IAC 9-10-16](#); several shooting preserve license holders already have dog training ground permits. This rule will not affect the sale of shooting preserve licenses because signs are already required by state law in [IC 14-22-31-6](#). The new rule in [312 IAC 9-10-23](#) governs migratory bird depredation permits. Because of the statutory change in [IC 14-22-6-2](#) that removed the exemption for federal permit holders from having to get a state permit, rule language is needed to specify requirements for taking nuisance migratory birds. This permit would deal with nuisance migratory birds such as woodpeckers, vultures, and other species that are causing damage to property or are posing a health or safety threat, and will be free of charge. With the issuance of a state permit, the DNR would have the ability to specify the methods of control and species and

number of birds taken. The DNR would also have knowledge of who has a permit to take a migratory bird. These individuals already have to obtain a federal migratory bird depredation permit; therefore, they will already have to complete an application form. The permits would be issued on the computer and printed out, and not more than 30 permits are expected to be issued each year (based on the number of federal permits that are typically issued). The changes in [312 IAC 9-11-11](#) require appropriate lighting for a wild animal possessed under this permit. A recent situation involving a cat possessed under this permit necessitated this change. The DNR is required to provide for the welfare of the animal pursuant to [IC 14-22-26-6](#) and keeping a wild animal, such as a cat, in a barn or other location where it has no access to light is not considered to be humane. This language is consistent with that of 9 CFR, Chapter 1, Subchapter A, Parts I through IV of the Animal Welfare Act for mammals. The remainder of the proposed rule amendments would not impose requirements or costs under [IC 4-22-2-24\(d\)\(3\)](#). The DNR has the statutory authority to issue permits and licenses for the possession and taking of wild animals in [IC 14-22-2-4](#). The DNR has the authority to issue the scientific purposes license in [IC 14-22-22](#); the field trial permit in [IC 14-22-24](#), the nuisance wild animal control permit in [IC 14-22-28](#), the falconry license in [IC 14-22-23](#), the shooting preserve license in [IC 14-22-31](#), the migratory bird depredation permit in [IC 14-22-2-6](#), and the wild animal possession permit in [IC 14-22-26](#). The DNR is also required to develop rules that are based upon "(A) The welfare of the wild animal, (B) The relationship of the wild animal to other animals, and (C) The welfare of the people in [IC 14-22-2-6](#)." "Wild animal" is defined in [IC 14-8-2-318](#). The Natural Resources Commission has the statutory authority to adopt rules pursuant to [IC 14-10-2-4](#).

The number of license and permit holders was obtained from the DNR Division of Fish and Wildlife's databases of license and permit holders. The benefits and costs of the proposed changes were obtained from staff of the DNR Divisions of Law Enforcement and Fish and Wildlife.

Copies of these rules are now on file at the Indiana Government Center North, 100 North Senate Avenue, Room N501 and Legislative Services Agency, Indiana Government Center North, 100 North Senate Avenue, Room N201, Indianapolis, Indiana and are open for public inspection.

Bryan W. Poynter
Chairman
Natural Resources Commission

Posted: 09/25/2013 by Legislative Services Agency
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